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7 **BEFORE THE VICTIM COMPENSATION AND GOVERNMENT CLAIMS BOARD**
8 **OF THE STATE OF CALIFORNIA**
9

10 In the Matter of the Application of:

11 **J.F.**

Precedent Decision 04-03

12 Application No. 722532

13 **Introduction**

14 A hearing on this application was held on January 13, 2004, in Los Angeles, California, by
15 Julia V. Johnson, Hearing Officer, California Victim Compensation and Government Claims Board
16 (Board). Michael Siegel, J.F.'s counsel, participated in and testified under oath at this hearing.
17 Applicant J.F. did not appear at this hearing. The hearing was closed to the public under Government
18 Code section 13963.1.

19 **Procedural Background**

20 The application for Victim Compensation Program (program) assistance arises from a
21 March 4, 2002 domestic violence incident involving J.F. and her then-boyfriend and cohabitant, S.C.
22 The Board received J.F.'s application on June 18, 2002¹, and approved it on August 6, 2002. In her
23 application, J.F. seeks compensation from the program for mental health expenses. To date, the
24 program has paid \$1,300.00 in mental health expenses on this application. J.F.'s request for relocation
25 expenses was denied because staff determined that there was not a preponderance of evidence that the
26 relocation expenses were directly related to the qualifying crime. J.F. timely appealed.

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29 ¹ Because the application was filed before the effective date of the current statute, Statutes 2002, chapter 1141 (Senate Bill 1423, Chesbro), all references are to the Government Code sections in effect on or before December 31, 2002.

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Is there a preponderance of evidence that J.F.'s relocation was directly related to the qualifying crime and necessary for J.F.'s emotional well-being?

Summary of Evidence

According to the Los Angeles Police Department report, on March 4, 2002, S.C. (J.F.'s boyfriend and cohabitant of two years) punched J.F. twice in the mouth after accusing J.F. of leaving their residence after he told her not to. The police report indicates that there were three prior domestic violence incidents between J.F. and S.C., but that none of the incidents were documented. The documentation submitted to the program suggests that S.C. pled guilty to unknown violations in relation to the March 4, 2002, incident. It also intimates that the terms of S.C.'s plea agreement directed that he would serve ninety (90) days in jail and enroll in a batterer's counseling program.

In support of J.F.'s request for relocation expenses, her psychologist, Elsa Salguero, submitted a letter to the program stating that, "We would recommend that the Program allows [*sic*] the relocation expenses for the emotional well being of the client and her daughter Allison [M.]."

J.F. submitted to the program a handwritten letter purported to be from her landlord that indicates that J.F. paid to her landlord \$500.00 for a security deposit and \$500.00 for first month's rental of a room beginning May 10, 2003. The letter also states that J.F. "may use [the landlord's] stove to cook meals, but must supply her own refridgerator [*sic*] and microwave." J.F. did not submit a lease for her current residence.

During the hearing, Mr. Siegel asserted that there is no specific requirement in the Government Code or in the Board's regulations that a person seeking relocation expenses must provide formal documentation (i.e., a typed letter on letterhead) from a landlord in order to verify that the claimant is living at the new location.

1 Additionally, J.F. submitted to the program receipts for: (1) clothes purchased on May 14 and
2 15, 2003, totaling \$747.68; (2) gas purchased between May 4 and 11, 2003, totaling \$26.00; (3) food
3 purchased between May 4 and 13, 2003, totaling \$111.63; (4) unknown goods purchased at Home Depot
4 on May 11, 2003, totaling \$7.73; and (5) unknown goods purchased at an unknown business on May 7,
5 2003, totaling \$3.22. J.F. also submitted to the program estimates dated May 15, 2003 for: (1) a Sears
6 refrigerator totaling \$444.73 and (2) a Sears microwave totaling \$97.41.

7 J.F. also seeks \$75.00 for a telephone deposit, but no documentation was provided to the
8 program regarding such deposit.

9 Relying upon the specific language in Government Code section 13957(a)(8)², Mr. Siegel
10 asserted that the law does not require that the relocation expenses be incurred as a direct result of the
11 qualifying crime. Instead, Mr. Siegel argued that the only requirement for relocation is that law
12 enforcement determine that the relocation expenses are necessary for the personal safety of the victim or
13 that a mental health treatment provider determine that the relocation expenses are necessary for the
14 emotional well-being of the victim. Even still, Mr. Siegel testified that Elsa Salguero told him that J.F.'s
15 relocation was related to the crime in this case and that it was for J.F.'s well-being.

16 Elsa Salguero's October 11, 2002 Initial Treatment Plan for J.F. indicates that Elsa Salguero's
17 treatment of J.F. ceased on September 19, 2002 because J.F. was participating in a detoxification
18 program for six months.

19 Mr. Siegel testified that J.F. told him that she was not in a detoxification program and that she
20 "wanted the record cleared" in that regard. Mr. Siegel also testified that Elsa Salguero did not know
21 where she had gotten the information that J.F. was in a detoxification program.

24 ² Government Code section 13957(a)(8) applies to applications filed with the program on or after January 1, 2003. Because
25 J.F.'s application was filed in 2002, Government Code section 13965(a)(4)(A), and not Government Code section
26 13957(a)(8), applies to the instant case. See Government Code section 13959(d).

27 Government Code section 13965(a)(4)(A) states, in relevant part:

28 "(a) If the application for assistance is approved, the board shall determine what type of state assistance will best aid the
29 victim... The board may take any or all of the following actions:

...
(4)(A) Authorize a cash payment or reimbursement not to exceed two thousand dollars (\$2,000) to a victim of sexual assault
or domestic violence for expenses incurred in relocating, if the expenses are determined by law enforcement to be necessary
for the personal safety of the victim or by a mental health treatment provider to be necessary for the emotional well-being of
the victim... "

Findings of Fact

Based on the testimony of Mr. Siegel during the hearing and on the documentary evidence contained in the Board's file, substantial evidence supports each of the following findings of fact:

1. J.F. was punched by her then-boyfriend and cohabitant, S.C., on March 4, 2002.
2. As a result of the March 4, 2002 crime, J.F. was counseled by Elsa Salguero
3. Elsa Salguero wrote a letter to the Board explaining that, "We would recommend that the Program allows [*sic*] the relocation expenses for the emotional well being of the client and her daughter Allison [M.]."

Determination of Issues

The Board shall approve an application if a preponderance of the evidence shows that as a direct result of the crime the victim incurred an injury that resulted in a pecuniary loss. (Gov. Code, § 13964(a).)

The applicant has the burden of proving all issues necessary to establish eligibility by a preponderance of evidence. (Cal. Code Regs., tit. 2, § 647.32.³)

The Board may authorize a cash payment reimbursement not to exceed two thousand dollars to a victim of sexual assault or domestic violence for expenses incurred in relocating if the expenses are determined by law enforcement to be necessary for the personal safety of the victim or by a mental health treatment provider to be necessary for the emotional well-being of the victim. (Gov. Code, § 13965(a)(4)(A).) These expenses may include, but are not limited to: (i) deposits for utilities and telephone service; (ii) deposits for rental housing, not to exceed the first and last month's rent and a security deposit or two thousand (\$2,000.00), whichever is less; (iii) temporary lodging and food expenses, not to exceed one thousand dollars (\$1,000.00); and (iv) clothing and other personal items, not to exceed five hundred dollars (\$500.00). (Gov. Code, § 13965(a)(4)(A).)

The Board shall develop procedures to ensure that the victim is using the cash payment only for the purposes set forth in the statute. The procedures may include, but need not be limited to, requiring copies of receipts, lease agreements, or other documents as requested, or developing a method for direct payment to the landlord or vendor. (Gov. Code, § 13965(a)(4)(B).)

"[T]he fundamental rule of statutory construction is [to] ascertain legislative intent so as to effectuate the purpose of the law. [Citations.] Legislative intent is not to be ascertained from isolated

1 parts of a statute or act; each part is to be construed with reference to the entire statutory system of
2 which it is a part, in such a way that the various overall elements of the scheme are harmonized.
3 [Citations.] Finally, statutory construction which leads to absurd consequences should be avoided.”
4 (People v. Colver (1980) 107 Cal.App. 3d 277, 285.)

5 The purpose of the program is “to assist residents of the State of California in obtaining
6 restitution for the pecuniary losses they suffer as a direct result of criminal acts.” (Gov. Code,
7 § 13959.)

8 The legislative history of Government Code section 13965(a)(4)(A) demonstrates that the
9 purpose of providing reimbursement to victims of domestic violence for relocation is “to help them
10 relocate away from the abuser.” (Sen. Com. on Public Safety, Rep. on AB 606 (1999-2000 Reg.
11 Sess.) June 29, 1999, p. 6.)

12 Mr. Siegel’s argument that J.F.’s relocation did not have to be directly related to the crime
13 fails. First, the clear purpose of the program is to provide services to those individuals who have
14 suffered losses as a direct result of the crime. Second, the legislative intent of Government Code
15 section 13965(a)(4)(a) is to allow victims of violence to escape their abusers by relocating. A nexus
16 between the qualifying crime and the relocation is presumed.

17 The more time that elapses between the date of the qualifying crime and the date of the
18 applicant’s relocation the more scrutiny the Board should apply to the nexus between the qualifying
19 crime and the applicant’s relocation. Based upon J.F.’s assertion that she did not move until fourteen
20 months after the crime, it is crucial that J.F. explain how her move was directly related to the crime.
21 Nevertheless, J.F. did not testify at the hearing. Additionally, Elsa Salguero’s statement in October
22 2002 that J.F. was in a detoxification program for six months suggests that J.F. needed to relocate
23 because she needed a place to live after leaving the program – not because of the qualifying crime.

24 In addition, Elsa Salguero did not state that the relocation was necessary for J.F.’s well-
25 being, but rather that she recommended it for J.F.’s well-being. Elsa Salguero’s words fall short of the
26 statutory requirement.

27 Based upon the foregoing, there is not a preponderance of evidence that J.F.’s requested
28 relocation expenses were incurred as a direct result of the qualifying crime.

29 ³ All regulation citations are to the California Code of Regulations, title 2.

Order

J.F.'s request for reimbursement of relocation expenses is denied.

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Notice of Decision

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12 On April 23, 2004, the California Victim Compensation and Government Claims Board
13 adopted the attached decision as Precedent Decision 04-03.

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15 Date: May____, 2004

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JUDITH A. KOPEC
Interim Chief Counsel
California Victim Compensation and
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